

RESOLUTION NO. R-2012 -1055

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/R/TDR-2011-03177  
(CONTROL NO. 2004-00458)  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
APPLICATION OF Hypoluxo Acquisition LLC, Trinacria Acquisition LLC  
BY CMS Engineering, LLC, AGENT  
(Toscana Isles PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application ABN/DOA/R/TDR-2011-03177 was presented as a development order to the Board of County Commissioners at a public hearing conducted on May 24, 2012; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Transfer of Development Rights and Article 5.G.2.K:

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ABN/DOA/R/TDR-2011-03177 the application of Hypoluxo Acquisition LLC, Trinacria Acquisition LLC by CMS Engineering, LLC, agent, for a Transfer of Development Rights to allow the purchase of 140 Transfer of Development Rights (TDR's) units and designate the site as a receiving area on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on May 24, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner Abrams and, upon being put to a vote, the vote was as follows:

Commissioner Shelley Vana, Chair	-	Nay
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Burt Aaronson	-	Nay
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2012

Filed with the Clerk of the Board of County Commissioners on July 31, 2012

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:   
COUNTY ATTORNEY

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

ALL OF ISOLA BELLA ISLES - PHASE I, AS RECORDED IN PLAT BOOK 111, PAGES 119 THROUGH 122 OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

TOGETHER WITH:

TRACT 14, AND THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER, OF THE NORTHWEST ONE-QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, AS SHOWN ON THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET. AL., AS RECORDED IN PLAT BOOK 9, PAGE 74, LYING SOUTH OF THE LAKE WORTH DRAINAGE DISTRICT CANAL L-18, AS RECORDED IN OFFICIAL RECORD BOOK 7511, PAGE 1952, ALL OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

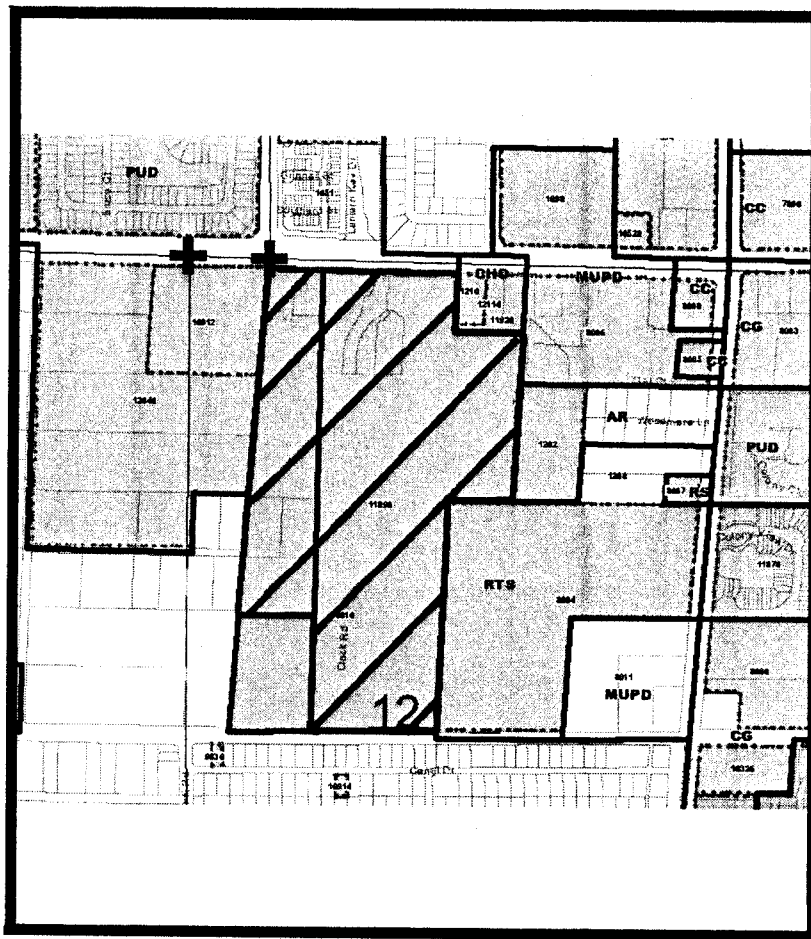
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID ISOLA BELLA ISLES - PHASE I; THENCE SOUTH 88°50'23" EAST ALONG THE NORTH LINE THEREOF, A DISTANCE OF 777.25 FEET; THENCE SOUTH 02°19'29" WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 316.08 FEET; THENCE SOUTH 89°12'21" EAST ALONG THE NORTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 385.72 FEET; THENCE SOUTH 02°52'11" WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 962.15 FEET; THENCE NORTH 89°35'07" WEST ALONG THE SOUTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 376.64 FEET; THENCE SOUTH 02°19'29" WEST ALONG THE EAST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 1,336.39 FEET; THENCE SOUTH 89°36'43" WEST ALONG THE SOUTH LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 724.74 FEET; THENCE NORTH 01°10'08" EAST ALONG THE WEST LINE OF SAID ISOLA BELLA ISLES - PHASE I, A DISTANCE OF 686.29 FEET; THENCE NORTH 89°19'20" WEST ALONG THE SOUTH LINE OF SAID TRACT 14 OF THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET. AL., A DISTANCE OF 434.49 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; THENCE NORTH 04°29'07" EAST SAID WEST LINE, A DISTANCE OF 1,956.51 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT CANAL L-18; THENCE SOUTH 89°00'25" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 4.77 FEET; THENCE SOUTH 88°50'23" EAST, A DISTANCE OF 316.53 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 3,075,805 SQUARE FEET OR 70.6108 ACRES MORE OR LESS.  
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B  
VICINITY SKETCH

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### TRANSFER OF DEVELOPMENT RIGHTS

1. At time of submittal for final approval by the Development Review Officer (DRO), an official 'Contract for Sale and Purchase of Transfer of Development Rights (TDR) Units' and 'TDR Deed' shall be submitted for final review and execution. (DRO: ZONING - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), two (2) recorded copies of the 'Contract for Sale and Purchase of Transfer of Development Rights (TDRs)' shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer (DRO), monies representing One Hundred and Eighty Five (185) Transfer of Development Rights (TDR) units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)

4. At time of submittal for the Subdivision Approval or the first Building Permit, whichever shall occur first, the property owner shall pay and/or release one hundred (100) percent of the Transfer of Development Right Funds to Palm Beach County. (DRO/BLDG PERMIT: MONITORING - Zoning)

5. Prior to the issuance of the first building permit, a deed conveying the applicable Transfer of Development Rights (TDR) units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)

#### TRANSFER OF DEVELOPMENT RIGHTS-COMPLIANCE (TDR)

6. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

#### TRANSFER OF DEVELOPMENT RIGHTS-COMPLIANCE (TDR)

7. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)